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COMMISSION ON HUMAN RIGHTS
Forty-ninth session
Item 8 of the provisional agenda

QUESTION OF THE REALIZATION OF THE RIGHT TO DEVELOPMENT

Written statement submitted by the International Organization for the Development of Freedom of Education, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[2 February 1993]

INDICATORS OF THE RIGHT TO EDUCATION

1. The International Organization for the Development of Freedom of Education (OIDEL) considers that on the basis of the deliberations of the Seminar on appropriate indicators for measuring success achieved in the progressive realization of economic, social and cultural rights, the following conclusions may be drawn:

(a) The use of indicators may contribute to the realization of economic, social and cultural rights and to the evaluation of progress achieved in the progressive realization of these rights;

(b) It would seem important to seek new indicators and quality indicators particularly for the purpose of evaluating as accurately as possible the "progressive character" of economic, social and cultural rights; and

(c) Indicators must, however, be used with caution as they continue to be an imperfect yardstick.

2. With a view to the progressive evaluation of the right to education in its various aspects, OIDEL has established a Working Commission which has reached a number of conclusions.

3. In most of the studies undertaken in this area, the approach has been purely quantitative and considerably reduced the extent of the right to education as provided for in the International Covenant on Economic, Social and Cultural Rights.

4. Under article 13 of the Covenant, the right to education comprises several aspects, namely:

(a) The right to education, in other words, the right to receive training which, in accordance with paragraph 2, must take the following forms:

Primary education must be compulsory and free to all;

Secondary education must be made generally available and accessible to all by the progressive introduction of free education;

Higher education must be made accessible to all by the progressive introduction of free education;

Fundamental education must be intensified (efforts to combat inability to read and write);

The State must develop a system of schools and a fellowship system and must continuously improve the material conditions of teaching staff.

(b) The right to freedom of education, which comprises:

The right of parents or legal guardians to choose for their children schools other than those established by the public authorities;

The right of parents or legal guardians to ensure the religious education of their children in conformity with their convictions;

The right of individuals and bodies to establish and direct educational institutions.

5. The indicators established so far concern only paragraphs 1 and 2 of article 13 and take no account of the last two paragraphs, which refer to the right to freedom of education (see, for example, para.41 of document E/CN.4/Sub.2/1990/19). Indicators should accordingly be devised to measure the degree of freedom and its progressive development.

6. The Working Commission established by OIDEL has taken up this task with a will. We took the view that qualitative and quantitative elements should be combined. We thus envisaged graduating the degree of freedom on the basis of the following criteria:

(a) Legal possibility of founding schools "other than those established by the public authorities", in accordance with the terms of the Covenant, and directing such schools;

(b) Existence of religious and moral education in the school directed by the public authorities in the light of the various religions and convictions;

(c) Financing of schools "other than those established by the public authorities" on a basis of parity with State schools;

(d) Percentage of schools "other than those established by the public authorities" in the country in question.

7. It seems clear that, under the Covenant, the first degree of freedom consists of the possibility of legal existence for schools independent of the State. This first degree must not be regarded as a minimum threshold because this threshold is situated elsewhere, as we shall see. In order to translate this freedom into a right accessible to all (respect for the principle of equality and non-discrimination), it is essential that schools "other than those established by the public authorities" should be free of charge and, accordingly, financed by the public authorities. We consider that this is where the minimum threshold lies, because only from this point on does the right to freedom become a right for all. The method of financing might also reflect the degree of freedom granted, but this is a question that should be addressed later.

8. The actual percentage of schools "other than those established by the public authorities" would provide a means of evaluating the effectiveness of legislation and establishing a graduated scale. The number and growth of alternative schools will depend on the efforts of the State. In accordance with the Covenant, the State should play a seminal role "to the maximum of its available resources, with a view to achieving progressively the full realization of the rights recognised in the ... Covenant" (Covenant, art.2, para.1).

9. As to the right to receive training (see para.4 (a) above), commonly known as the right to education, we consider that the indicators should be more in keeping with the graduated system established in article 13, paragraph 2, of the Covenant, to which we have drawn attention above (para.4 (a)).

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Forty-ninth session
Agenda item 12

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by the Lawyers Committee for Human Rights, a non-governmental organization in consultative status (category II)

The Secretary-General has received the following written statement, which is distributed in accordance with Economic and Social Council resolution 1296 (XLIV).

[4 February 1993]

HUMAN RIGHTS VIOLATIONS IN HAITI

1. The Haitian armed forces continue to commit gross and systematic human rights violations which has created a climate of fear among the population and impunity among the perpetrators. Anyone even suspected of supporting the return to Haiti of the constitutional President, Jean-Bertrand Arstide, is at serious risk of arrest, detention, and even torture of execution.

2. Despite condemnation from the international community, including the Commission on Human Rights in its resolution 1992/77 adopted unanimously during the forty-eighth session, the Haitian army and police, along with rural police known as "section chiefs" and paramilitary groups, continue to defy Organization of American States and United Nations resolutions calling for a halt to violations and the prosecution of those responsible. Horrendous practices show no sign of ending. Haiti has ratified the International Covenant on Civil and Political Rights. The following cases provide only a snap-shot of the daily depredations of the Haitian armed forces.

Extrajudicial executions (violations of the right to life and the security and integrity of the person; article 6 of the International Covenant on Civil and Political Rights)

3. The body of Mr. Jacques Derenoncourt was found on 3 December 1992 near Morne Cabrit, approximately 20 miles north of Port-au-Prince. Mr. Derenoncourt was abducted by armed men on Wednesday, 2 December at 2 p.m. in downtown Port-au-Prince and he was never seen alive again. Mr. Derenoncourt was a member of KONAKOM, a consortium of grass-roots political parties known for their support of President Aristide.

4. On 21 November 1992, two other members of KONAKOM were similarly abducted by armed men in civilian clothes. Wesner Luc, 20 years old, was abducted along with Justin Brézil, 29 years old, on Sunday, 21 November at about 1 p.m. in Carrefour, a city bordering south-western Port-au-Prince. Armed men took them away in a jeep. The body of one, Mr. Luc, was found the next day. Mr. Brézil has not been seen since his "disappearance". The Lawyers Committee fears for the life of Mr. Brézil and wrote a letter to the Working Group on Enforced or Involuntary Disappearances asking it as a matter of utmost urgency to contact the Haitian de facto authorities to determine his whereabouts and to ensure his well-being. We have no further information about his case. Mr. Brézil has not been seen since his abduction. His "disappearance" is grave cause for concern. The Lawyers Committee fears that he may have been extrajudicially executed.

5. The body of Mr. Luc was discovered on 22 November along the road to Croix des Bouquets, north-east of Port-au-Prince. The body reportedly had numerous bullet wounds and lacerations. Mr. Luc's family identified the body at the morgue.

6. Both Mr. Luc and Mr. Brézil were well-known members of KONAKOM, a coalition of political parties and grass-roots organizations known for their support of President Jean-Bertrand Aristide. Real and suspected supporters of President Aristide have been targeted for abuse by the Haitian armed forces and their civilian allies.

7. On 19 August 1992, the bodies of three young men were found in the central morgue. The men had been arrested on 18 August by members of the Haitian security forces who found them putting up posters of President Aristide the day before a delegation from the Organization of American States and the United Nations were due to arrive. One of those killed was 25-year-old Martine Rémilien, a co-founder of a new pro-Aristide party.

Illegal arrest, detention, torture and mistreatment (violations of articles 7, 9 and 10 of the International Covenant on Civil and Political Rights)

8. On 16 January 1993, 107 people were arrested in Lapierre, outside the coastal city of Gonaïves, for attempting to leave the country by boat. A representative of the National Coalition for Haitian Refugees was able to interview many of the detainees and found that 40 women and 12 children were among those arrested and detained. The children were being kept with adult

prisoners in the army prison in the Gonaïves barracks. Forty-five prisoners were kept for four days before finally being brought before a judge who ordered their release. The rest remained in detention for several more days.

9. The journalist, Mr. Jean Emile Estimable was illegally arrested and detained on 22 January by Section Chief Gélès in Pont Joux near the town of Marchand Dessalines. He was then taken to the prison in Marchand Dessalines where he spent the night and he was subsequently transferred to the prison in St. Marc on 23 January. He has been beaten and tortured. His health is in a precarious state as a result of the beating and the terrible conditions of detention. Mr. Estimable is a former correspondent for Radio Cacique, a radio station that was destroyed during the first days after the September 1991 coup. He allegedly had pro-Aristide literature when he was arrested.

10. Mr. Estimable was still in detention as of Saturday, 30 January. His health is a serious concern. The Catholic Church's Commission for Justice and Peace was able to visit him briefly. They saw visible evidence that he had been struck repeatedly around the ears and had been tortured with the Kalott Marasso (a typical Haitian torture method where the victim is simultaneously beaten on both sides of the head). Mr. Estimable had great difficulty hearing when asked questions. He has not received any medical attention and the marks on his wrists where he had been tied eight days earlier were still visible. Mr. Estimable has not been brought before a judge despite the constitutional requirement of a hearing within 48 hours of arrest. An international delegation was not allowed to visit him shortly after his arrest. The St. Marc prison is infamous for its inhuman conditions and the brutality of its guards. The Lawyers Committee for Human Rights receives regular reports of mistreatment and abuse in this prison.

11. Members of a peasants' organization near the north-western city of Jean Rabel were arrested and tortured by the section chief and members of the Haitian armed forces in early January. Dieuland Corjelas was arrested and severely beaten on 6 January by Section Chief Erilien Delien and his assistant Lavaud Brutus. The next day Corjelas was taken to the military barracks in Jean Rabel and was reportedly tortured by the army commander of the subdistrict and assisted by a sergeant.

12. Orijèn Sineyas was arrested on 15 January 1993 at Saut d'Eau on suspicion of being an Aristide supporter. This is not a crime under the Haitian Penal Code but serves as a frequent ground for arrest these days in Haiti. His family says he was badly beaten and he remains in detention according to our latest information. In another incident all too common in Haiti, André Noreska, who was also being sought as a suspected Aristide supporter, was able to escape when soldiers came to his house looking for him. In his place, they arrested three members of his family who were reportedly mistreated and then released without charge.

13. An unknown number of students were illegally arrested and beaten by the Haitian armed forces on 1 December at the University of Haiti's School of Agriculture. The students were peacefully protesting the installation of a new Dean of the school.

14. Mr. Lerès Sidor was illegally arrested, beaten and tortured on 12 November 1992 by the Section Chief Nevè Charles. Mr. Sidor was showing three visiting Canadians and two Americans a development project in his area. Reportedly, he was beaten while being arrested in the presence of the visitors and then was taken to the military station at Desarmes where he was again beaten while the visitors tried to intervene on his behalf. The next day the justice of the peace released him for lack of any charges. He was forced to leave the region.

15. The torture and beating of Mr. Sidor unfortunately fits a pattern in Haiti where members of grass-roots organizations have been targeted by the Haitian military.

CONCLUSION AND RECOMMENDATIONS

16. The Lawyers Committee for Human Rights urges the Commission once again: to condemn severely the human rights violations committed by the Haitian armed forces and their civilian allies; to reappoint the Special Rapporteur to monitor the situation of human rights and fundamental freedoms in Haiti and to report on the subject; and to continue its consideration of the situation of human rights in Haiti under the agenda item "Violations of human rights and fundamental freedoms in any part of the world."

17. In his address to the Commission last year, President Aristide invited the Special Rapporteurs on the question of torture and on summary or arbitrary executions and the Working Group on Enforced or Involuntary Disappearances to visit Haiti to investigate cases within each of their respective mandates. To the best of our knowledge, no such visits have taken place. The Lawyers Committee urges that the Commission make whatever arrangements are necessary to ensure that President Aristide's invitation to these human rights experts is acted upon as quickly as possible.